

**Assembly Bill No. 653**

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Passed the Assembly    September 4, 2001

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*Chief Clerk of the Assembly*

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Passed the Senate    August 30, 2001

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2001, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Section 48900 of the Education Code, and to amend Sections 241.2 and 243.2 of the Penal Code, and to add Section 729.6 to the Welfare and Institutions Code, relating to crime.

## LEGISLATIVE COUNSEL'S DIGEST

AB 653, Horton. Crime: minors: schools.

Existing law specifies those acts for which a pupil may be suspended from school or recommended for expulsion.

This bill would, in addition, include the act of aiding or abetting the infliction or attempted infliction of physical injury to another person as an act for which a pupil may be suspended, but not expelled.

Existing law provides that an assault committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would authorize the court, where the assault was committed by a minor, to order the minor to undergo counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Existing law provides that a battery committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would authorize the court, if the battery was committed by a minor, to order the minor to undergo counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Existing law provides that any person who is under the age of 18 years when he or she violates any law or ordinance defining crimes, as specified, is within the jurisdiction of the juvenile court.

This bill would, in addition, provide that if persons are subject to the jurisdiction of the juvenile court by reason of the commission of an assault or battery on school grounds, as specified, the court shall, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling at the expense of the minor's parents, as specified.



*The people of the State of California do enact as follows:*

SECTION 1. Section 48900 of the Education Code is amended to read:

48900. A pupil may not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to one or more of subdivisions (a) to (q), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless



tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) A pupil may not be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

- (1) While on school grounds.
- (2) While going to or coming from school.
- (3) During the lunch period whether on or off the campus.



(4) During, or while going to or coming from, a school sponsored activity.

(q) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion, pursuant to the provisions of this section.

Except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(r) A superintendent or principal may use their discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(s) It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

SEC. 2. Section 241.2 of the Penal Code is amended to read:

241.2. (a) (1) When an assault is committed on school or park property against any person, the assault is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(2) When a violation of this section is committed by a minor on school property, the court may, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling as deemed appropriate by the court at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.

(b) "School," as used in this section, means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college.

(c) "Park," as used in this section, means any publicly maintained or operated park. It does not include any facility when used for professional sports or commercial events.



SEC. 3. Section 243.2 of the Penal Code is amended to read:

243.2. (a) (1) Except as otherwise provided in Section 243.6, when a battery is committed on school property, park property, or the grounds of a public or private hospital, against any person, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

(2) When a violation of this section is committed by a minor on school property, the court may, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling as deemed appropriate by the court at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Hospital" means a facility for the diagnosis, care, and treatment of human illness that is subject to, or specifically exempted from, the licensure requirements of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) "Park" means any publicly maintained or operated park. It does not include any facility when used for professional sports or commercial events.

(3) "School" means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college.

(c) This section shall not apply to conduct arising during the course of an otherwise lawful labor dispute.

SEC. 4. Section 729.6 is added to the Welfare and Institutions Code, to read:

729.6. If a minor is found to be a person described in Section 602 by reason of the commission of an offense described in Section 241.2 or 243.2 of the Penal Code, the court shall, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents



consistent with Section 730.7 to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.



Approved \_\_\_\_\_, 2001

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*Governor*

